

AFTER RECORDING, PLEASE RETURN TO:

PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111-2218
Attn: Gary E. Doctorman

EASEMENT AND VACATION OF ALLEY AGREEMENT

THIS EASEMENT AND VACATION OF ALLEY AGREEMENT ("**Agreement**") is made and entered into this ____ day of _____, 2016, by 2121 Fedora, LLC, a Utah limited liability company ("**Grantor**") whose address is 201 South Main Street, Suite 1800, Salt Lake City, Utah 84111, and the City of South Salt Lake, Utah, ("**Grantee**") whose address is 220 E. Morris Avenue, South Salt Lake City, Utah 84115, (Grantor and Grantee are referred to collectively as the "**Parties**" and individually as a "**Party**"), referring to:

RECITALS

A. Grantor is the owner of parcels of real property in Salt Lake County, Utah and more particularly described as all of lots 7 through 14, 34 and 35 Hollywood Tract according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office ("**Grantor Parcels**").

B. Grantor applied to the City of South Salt Lake to vacate the real property used for a public alley that is between Grantor's Lot 34 and Lots 7 through 12 of the Hollywood Tract, according to the official plat thereof on file with the record of Salt Lake County Recorder's Office ("**Vacated Property**"). The Vacated Property is more particularly described on **Exhibit A**.

C. The owners of parcels of real property in Salt Lake County, Utah more particularly described as all of lots 15 through 33 and 36 through 54 Hollywood Tract according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office ("**Permittee Parcels**"). The owners of the Permittee Parcels used the Vacated Property to access alleys described below.

D. As consideration for the City of South Salt Lake vacating the Vacated Property, Grantor desires to grant an easement to Grantee to use the Easement (defined below), and to allow the owners and their tenants, invitees, contractors, and those providing services to the Permittee Parcels (collectively "**Permittees**") to use the Easement to access the Alleys (defined below).

E. The Permittees used the Vacated Property to obtain access to two alleys, the first running east-west and more particularly described on **Exhibit B ("Existing East-West Alley")**. The second, running north-south and more particularly described on **Exhibit C ("Remaining North-South Alley")**. The Existing East-West Alley and the Remaining North-South Alley are collectively referred to as "**Alleys**."

F. The City of South Salt Lake has no easement for its existing water line that runs under and across Grantor's Lot numbers 13 and 34.

G. In consideration of the abandonment of the Vacated Property, Grantor grants the City of South Salt Lake an easement for its water line under the conditions described below.

AGREEMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are acknowledged, Grantee and Grantor agree:

1. **Grant of Easement.** Grantor grants and conveys to Grantee a non-exclusive easement for vehicular traffic over, through and across the Grantor Parcels driveways in its parking lots as from time to time may be paved and intended for driveway purposes ("**Easement**"). The Permittees have the right to use the Easement. Grantor may relocate and/or reconfigure the parking configuration, the driveways and the location of the building from time to time as it sees fit, without the consent of the Grantee or Permittees, provided, however, Grantor (except during periods of construction for a reasonable period of time) shall provide a reasonable access across its driveways to the Alleys for as long as the Alleys exist. Grantee and Permittees shall not have the right to park in Grantor's parking lots. The parking spaces will be designated with striped painted lines on the pavement or by other designations. Permittees may only use the driveways to access the Alleys and may not park in the driveways or designated parking areas.

2. **Reservation of Rights.** Grantor reserves to itself and its tenants, successors, and assigns the right to cross over or under the Easement, to place or grant other easements along, across, or under the Easement, and to otherwise make improvements to the Easement, so long as those uses and improvements do not materially impair or diminish Grantors or Permittees' use of the Easement.

3. **Water Line Easement.** Grantor grants to the City of South Salt Lake an easement for repairing and maintaining the existing water line that crosses under Lots 13 and 34 of the Hollywood Tract, according to the official map on record in the Salt Lake County Recorder's Office, to maintain the water line ("**Water Line Easement**"). Grantor reserves the right to relocate the Water Line Easement and the water line at its expense. Grantee, must keep the water line underground, and only for reasonable repairs may the surface be disturbed. If the surface is disturbed by the City of South Salt Lake, it shall repair all damage including landscaping and asphalt to at least the condition they were in prior to the City of South Salt Lake disturbing the landscaping or asphalt. Unless it is an emergency, the City of South Salt Lake shall give Grantor 48 business hours' notice, in writing, prior to entering upon Grantor's land.

4. **Duration of Easements.** The Easement and Water Line Easement will be perpetual and may be terminated only upon Grantee's recordation of a notice of termination in the records of the Salt Lake County Recorder or upon the Grantee vacating the Alleys.

5. **Vacating of Vacated Property.** Under City of South Salt Lake Municipal Code Section 15.12.495, the City Council held a public hearing on March 23, 2016 and properly voted to vacate the Vacated Property described on **Exhibit A**. The City of South Salt Lake vacates,

abandons and quit-claims to Grantor the real property described on **Exhibit A**. After vacation, the consolidated description for combined Lots 7 through 12 and Lots 34 and 35, Hollywood Tract Subdivision, is designated on **Exhibit D**.

6. Not a Public Dedication. Nothing in this Agreement will be deemed to be a gift or dedication of any portion of the Grantor Parcels to or for the general public or for any public purposes, it being the intention of the Parties this Agreement be strictly limited to and for the purposes expressed.

7. Indemnification. Grantee indemnifies, holds harmless and agrees to defend Grantor for, from and against all claims, damages, expenses (including, without limitation, attorneys' fees and reasonable investigative and discovery costs), liabilities and judgments on account of injury to persons, loss of life, or damage to property occurring on the Grantor Parcels, caused by the active or passive negligence of Grantee or Permittees, or the breach by Grantee of any of its obligations; provided, however, this indemnification does not apply to the extent any loss of life, injury to any person, or damage to any property is caused by the active or passive negligence of Grantor, or its respective agents, servants or employees.

8. Liens. Under no circumstances will Grantee or Permittees permit any mechanic's lien, materialmen's lien, or other lien of any kind on the Grantor Parcels by anyone claiming by reason of any act or omission of Grantee, or any of its employees, agents, representatives, contractors, subcontractors, successors, or assigns, and Grantee agrees to indemnify, defend, and hold Grantor harmless for, from and against all claims, damages, expenses (including, without limitation, attorneys' fees and reasonable investigative and discovery costs), liabilities and judgments because of any such liens.

9. Remedies. Upon any violation or threatened violation by any Party of any of the terms, restrictions, covenants and conditions of this Agreement, the other Party will have, in addition to the right to collect damages, the right to enjoin such violation or threatened violation or ask to have the Easement or Water Line Easement terminated in any court of competent jurisdiction. Except as otherwise provided, it is agreed that no breach of this Agreement will entitle any Party to cancel, rescind, or otherwise terminate this Agreement, but this limitation will not affect, in any manner, any other rights or remedies which any Party may have by any breach of this Agreement. Besides all other remedies available at law or in equity, upon the failure of a defaulting Party to cure a breach within twenty (20) days following written notice thereof from the non-defaulting Party, the non-defaulting Party may perform such obligation in this Agreement on behalf of such defaulting Party and be reimbursed by such defaulting Party upon demand for the reasonable costs thereof. Notwithstanding the foregoing to the contrary, if the nature of the breach of this Agreement presents an immediate risk of damage to property, injury to persons, interruption of utility service or loss, obstruction or blockage of access, the prior notice requirement of this paragraph will not apply, and the non-defaulting Party will be authorized to try to minimize or eliminate such risk, and be reimbursed for the reasonable costs thereof as. Notice of such action will be given to the defaulting Party when reasonably practicable under the circumstances.

10. Notices. All notices, requests, demands and consents to be made to the Parties will be in writing and will be delivered by (a) established express delivery service which

maintains delivery records, (b) hand or (c) registered mail or certified mail, postage prepaid, return receipt requested, through the United States Postal Service to the addresses shown below or such other address which the Parties may provide to one another in accordance.

To Grantor: 2121 Fedora, LLC
2439 Michigan
Salt Lake City, UT 84108
Attn: Gary Doctorman

To Grantee: City of South Salt Lake
220 East Morris Ave.
South Salt Lake UT 84115
Attn: City Attorney

Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible because of failure to provide a reasonable means for accomplishing delivery.

11. Estoppel. Grantee will, upon not less than ten (10) days' prior written notice from Grantor, execute, acknowledge and deliver to Grantor a statement in writing (i) certifying this Agreement is unmodified, or if modified stating the nature of such modification, and in full force and effect (or, if modified, stating the nature of such modification and certifying this Agreement, as so modified, is in full force and effect), and (ii) acknowledging there are not, to Grantee's knowledge, any uncured defaults by Grantee, or specifying such defaults if any are claimed.

12. Severability. If any condition, covenant or other provision contained is held to be invalid or void by any court of competent jurisdiction, the same will be deemed severable from the remainder of this Agreement and will in no way affect any other condition, covenant or other provision contained. If such condition, covenant or other provision will be deemed invalid due to its scope or breadth, such condition, covenant or other provision will be deemed invalid for the scope and breadth permitted by law.

13. No Partnership. The Parties do not by this Agreement, or for any purpose, become partners or joint venturers of each other in the conduct of their respective businesses or otherwise.

14. Further Action. The Parties will execute and deliver all documents, provide all information, take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

15. Counterparts. This Agreement may be executed in many counterpart originals, each of which will be deemed an original instrument for all purposes, but all of which will comprise the same instrument.

16. Governing Law. This Agreement will be construed and enforced under the laws of the State of Utah.

17. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subjects contained in this Agreement. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are superseded by and merged in this Agreement. No supplement, modification or amendment of this Agreement will be binding unless in writing and executed by each Party and recorded in the records of the Salt Lake County Recorder.

THIS AGREEMENT IS EXECUTED as of the date written.

GRANTOR:

GRANTEE:

2121 FEDORA, LLC, a Utah limited liability company CITY OF SOUTH SALT LAKE

By: _____
Print Name: Gary E. Doctorman
Its: Manager

By: _____
Print Name: _____
Its: _____

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Gary E. Doctorman, the manager of 2121 Fedora, LLC, who acknowledged to me that 2121 Fedora, LLC executed this Agreement with duly obtained authority.

My Commission Expires:

NOTARY PUBLIC
Residing at: _____

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____ of the City of South Salt Lake, who acknowledged to me that the City of South Salt Lake executed this Agreement with duly obtained authority.

My Commission Expires:

NOTARY PUBLIC
Residing at: _____

**EXHIBIT A
TO
EASEMENT AGREEMENT**

VACATED PROPERTY

The Vacated Property is in Salt Lake County, Utah and is more particularly described:

A TRACT OF LAND CONTAINED WITHIN THE LIMITS OF LOT 1 AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 SOUTH , RANGE 1 EAST OF SALT LAKE MERIDIAN. TO WIT:

BEGINNING AT THE SOUTHWEST CORNER OF LOT THIRTY-FOUR (34), BLOCK 1, HOLLYWOOD TRACT; SAID TRACT IS A SUBDIVISION OF PART OF LOT 9, BLOCK 41, TEN ACRE PLAT "A", BIG FIELD SURVEY, SAID POINT FURTHER DESCRIBED AS BEING ON THE NORTHERLY RIGHT OF WAY LINE OF COMMONWEALTH AVENUE, A PUBLIC STREET, THENCE NORTH 00°05'00" EAST 134.99 FEET; THENCE NORTH 44°59'30" EAST 7.08 FEET; THENCE NORTH 00°05'00" EAST 15.00 FEET; THENCE NORTH 89°58'51" WEST 20.91 FEET; THENCE SOUTH 00°05'00" WEST 155.00 FEET TO THE SOUTHEAST CORNER OF LOT 12 OF SAID HOLLYWOOD TRACT SUBDIVISION; THENCE SOUTH 89°58'51" EAST 15.96 FEET ALONG SAID NORTHERLY RIGHT OF WAY LINE OF COMMONWEALTH AVENUE TO THE POINT OF BEGINNING.

CONTAINS: 2561.33 S.F.

**EXHIBIT B
TO
EASEMENT AGREEMENT**

EXISTING EAST-WEST ALLEY

The Existing East-West Alley is in Salt Lake County, Utah and is more particularly described:

A TRACT OF LAND CONTAINED WITHIN THE LIMITS OF LOT 1 AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 SOUTH , RANGE 1 EAST OF SALT LAKE MERIDIAN. TO WIT:

BEGINNING AT THE NORTHEAST CORNER OF LOT THIRTY-FIVE (35), BLOCK 1, HOLLYWOOD TRACT; SAID TRACT IS A SUBDIVISION OF PART OF LOT 9, BLOCK 41, TEN ACRE PLAT "A", BIG FIELD SURVEY, THENCE NORTH 00°05'00" EAST 15.00 FEET; THENCE NORTH 89°58'51" WEST 45.00 FEET; THENCE SOUTH 00°05'00" WEST 15.00 FEET; THENCE SOUTH 89°58'51" EAST 45.00 FEET TO THE POINT OF BEGINNING.

CONTAINS: 671.91 S.F.

**EXHIBIT C
TO
EASEMENT AGREEMENT**

REMAINING NORTH-SOUTH ALLEY

The Remaining North-South Alley is in Salt Lake County, Utah and is more particularly described:

A TRACT OF LAND CONTAINED WITHIN THE LIMITS OF LOT 1 AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 SOUTH , RANGE 1 EAST OF SALT LAKE MERIDIAN. TO WIT:

BEGINNING AT THE NORTHWEST CORNER OF LOT THIRTEEN (13), BLOCK 1, HOLLYWOOD TRACT; SAID TRACT IS A SUBDIVISION OF PART OF LOT 9, BLOCK 41, TEN ACRE PLAT "A", BIG FIELD SURVEY, SAID POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF 2100 SOUTH STREET; THENCE NORTH 89°58'51" WEST 15.96 FEET; THENCE SOUTH 00°05'00" WEST 140.00 FEET; THENCE SOUTH 89°58'51" EAST 20.96 FEET; THENCE NORTH 45°00'30" WEST 7.06 FEET; THENCE NORTH 00°05'00" EAST 135.01 FEET TO THE POINT OF BEGINNING.

CONTAINS: 2246.88 S.F.

**EXHIBIT D
TO
EASEMENT AGREEMENT**

CONSOLIDATED DESCRIPTION

DESCRIPTION FOR COMBINED LOTS 7 THRU 12 & LOTS 34,35 HOLLYWOOD TRACT SUBDIVISION
AND INCLUDING VACATED ALLEY

A TRACT OF LAND CONTAINED WITHIN THE LIMITS OF LOT 1 AND THE NORTHWEST QUARTER
OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 SOUTH , RANGE 1 EAST OF SALT
LAKE MERIDIAN. TO WIT:

BEGINNING AT THE SOUTHWEST CORNER OF LOT TWELVE (12), BLOCK 1, HOLLYWOOD TRACT;
SAID TRACT IS A SUBDIVISION OF PART OF LOT 9, BLOCK 41, TEN ACRE PLAT "A", BIG FIELD
SURVEY, SAID POINT FURTHER DESCRIBED AS BEING ON THE NORTHERLY RIGHT OF WAY LINE
OF COMMONWEALTH AVENUE, AND THE EASTERLY RIGHT OF WAY LINE OF STATE STREET;
THENCE NORTH 00°05'00" EAST 150.00 FEET; THENCE SOUTH 89°58'51" EAST 148.00 FEET;
THENCE NORTH 00°05'00" EAST 5.00 FEET; THENCE SOUTH 89°58'51" FEET 20.96 FEET; THENCE
SOUTH 00°05'00" WEST 15.00 FEET; THENCE SOUTH 00°05'00" WEST 140.00 FEET TO A POINT ON
SAID NORTHERLY RIGHT OF WAY LINE OF COMMONWEALTH AVENUE; THENCE NORTH 89°58'51"
WEST ALONG SAID RIGHT OF WAY LINE 213.95 FEET TO THE POINT OF BEGINNING.

CONTAINS: 31,747.59, SQ. FT. OR 0.73 ACRES